

The United States State Department, Office of Foreign Missions, issues tax exemption identification cards to certain accredited diplomatic personnel and consular offices under the authority of the Foreign Missions Act (22 U.S.C. 4301 et seq.). These cards can be presented at point of sale to document exemption from sales tax. See 86 Ill. Adm. Code 130.2080(c) and 130.Illustration A. (This is a GIL).

August 11, 2004

Dear Xxxxx:

This letter is in response to your fax received June 22, 2004 in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We would like to confirm applicable taxes imposed on the attached list of products, for the purpose of adjusting cost of living allowances which are paid to our diplomats temporarily living in CITY. Grateful if you would list the taxes applicable to each product and indicate if other taxes or duties are imposed by city or federal, etc & rate if possible.

I was referred to you by the officers at State IL Building office.

DEPARTMENT RESPONSE:

For information on the availability of exemptions to foreign diplomats, please see our rule at 86 Ill. Adm. Code 130.2080 and the materials in 86 Ill. Adm. Code 130.ILLUSTRATION A (enclosed).

With respect to specific products, sales of tangible personal property are taxed at the general State tax rate of 6.25% (high rate), with some exceptions. The exceptions are taxed by the State at the rate of 1% (low rate) and include the following items: food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption), and prescription and non-prescription

medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. See 35 ILCS 120/2-10. For more information on what products are taxed at the low rate, please see the Department's rule at 86 Ill. Adm. Code 130.310.

In addition to the State-imposed taxes, the municipality, county, or other taxing district where the item is purchased may impose a local tax. The rate of tax imposed on a specific item will depend on the location where the sale occurs and may include State-imposed taxes, locally imposed taxes administered by the State, and locally imposed taxes administered by the unit of local government where the sale occurs. As a result of this we cannot provide a specific tax rate for a given item of tangible personal property. Please note, though, that the general merchandise rate on items sold in the City of Chicago within Cook County is 8.75%.

In addition to the use and occupation taxes imposed as provided above, a number of other taxes may apply.

The State tax imposed on cigarettes under the Cigarette Tax Act is imposed at the rate of 98 cents per pack of 20 cigarettes. (See 86 Ill. Adm. Code 440.10) The tax imposed on other tobacco products under the Tobacco Products Tax Act of 1995 is imposed at the rate of 18% of the wholesale price of tobacco products sold or otherwise disposed of in this State. (See 86 Ill. Adm. Code 660.05)

For alcohol products the State tax is imposed at the rate of 73¢ per gallon for wine containing less than 20% of alcohol by volume other than cider containing less than 7% alcohol by volume; 18.5¢ per gallon on beer; 18.5¢ per gallon for cider containing not less than 0.5% alcohol by volume nor more than 7% alcohol by volume; and \$4.50 per gallon on alcoholic liquor having 20% or more of alcohol by volume. (See 86 Ill. Adm. Code 420.10)

The State tax on motor fuel is 19 cents per gallon for all motor fuel except diesel and 21.5 cents per gallon on diesel. (See 86 Ill. Adm. Code 500.200)

The State tax on telecommunications is imposed at the rate of 7% of the gross charge for telecommunications purchased at retail from retailers. (See 86 Ill. Adm. Code 495.140)

With respect to sales of service, the Retailers' Occupation Tax and Use Tax do not apply to receipts from sales of personal services. Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. If tangible personal property is not transferred, tax is not incurred. For your general information please see 86 Ill. Adm. Code Part 140 regarding sales of service and Service Occupation Tax.

The taxes indicated in this letter are those taxes that are imposed by the State. A unit of local government may impose a local tax identical to a State-imposed tax (such as a cigarette tax) or it may impose a tax not otherwise imposed by the State (such as an "entertainment" tax). Any locally imposed taxes must be confirmed with the unit of local government in which purchases will be made.

While the holder of a tax exemption card discussed at 86 Ill. Adm. Code 130.2080 is eligible for an exemption from the use and occupation taxes to the extent detailed on the card, this exemption does not extend to the other taxes discussed in this letter, unless a specific exemption is granted. In many instances, the legal incidence of these other taxes is on the retailer or distributor and not the ultimate consumer of the item. As a result there is no "tax" to be exempt from. In these instances, the "tax" paid by the ultimate consumer is actually a reimbursement for the tax that is imposed on the retailer or distributor of the item.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110(b).

Sincerely,

Samuel J. Moore
Associate Counsel

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